

OGC Has Reviewed

27 OCT 1976

DD/A Registry
File Personnel-18

MEMORANDUM FOR: Director of Central Intelligence

FROM : Thomas B. Yale
Director of Finance

THROUGH : General Counsel

SUBJECT : Pay Rates for Agency Senior Executive Pay
Scale Personnel

REFERENCES : A. Memo for D/Pers fr [REDACTED] OGC; STATINTL
dtd 6 October '76; Subj: Pay Rates for
Senior Agency Personnel

B. Memo for D/Pers fr John A. McCone, DCI;
dtd 7 Aug '64; Subj: CIA Salary
Administration - Senior Executive
Pay Scale

C. Memo for Record fr [REDACTED] OGC; STATINTL
dtd 20 Oct '76; Subj: Application of
Comptroller Gen. Decision Concerning
Executive Level Pay Rates

1. This memorandum requests your consideration and decision as to whether the Agency Senior Executive Pay Scale personnel who have been compensated at rates established for Levels IV and V of the Federal Executive Salary Schedule should be paid at the revised rates set for those levels by Executive Order 11941, dated 1 October 1976.

2. Mr. McCone in Reference B established a Senior Executive Pay Scale for a limited number of Agency positions for which compensation was fixed at the rates established for Levels IV and V of the Federal Executive Salary Schedule. He also directed that these rates should be changed in the future in accordance with the provisions of law-making changes in the Federal Executive Salary Schedule.

Administrative - Internal Use Only

3. Continuously since the time of Reference B the incumbents of Agency Senior Executive Pay Scale positions have been paid at the rates as revised from time to time for Levels IV and V of the Federal Executive Salary Schedule for statutory Executive Schedule positions.

4. The Federal Executive Salary Schedule rates were again increased by Executive Order 11941, effective with the first pay period beginning on or after 1 October 1976. The Legislative Branch Appropriations Act, 1977, however provides: "No part of the funds appropriated in this Act or any other Act shall be used to pay the salary of an individual in a (statutory Executive Level position) ... at a rate which exceeds the salary rate in effect on September 30, 1976, for such position or office..."

5. The Comptroller General has ruled however that the cited limitation on use of funds refers only to statutory Executive Schedule positions and not to positions which are to be compensated at rates equivalent to the rates set for such statutory positions. On this basis, Mr. [REDACTED] Associate General Counsel, in Reference A. has ruled that Agency Senior Executive Pay Scale personnel are to be compensated at the increased rates established by Executive Order 11941 for Levels IV (\$41,800) and V (\$39,600) of the Federal Executive Salary Schedule. That Level V rate, of course, also establishes the limit for compensation of Agency personnel paid at rates equivalent to General Schedule positions elsewhere in government. STATINTL

6. Application of the new Level IV and V rates to Agency Senior Executive Pay Scale personnel will have the effect for the first time of compensating these officers at rates higher than their counterparts elsewhere in government occupying statutory Federal Executive Schedule positions. I believe such action has the potential for being politically sensitive. Thus even though the General Counsel agrees such application is legally proper, I believe you personally should make the determination as to whether the new rates should be applied. Should they not be applied, all Agency personnel GS-15, Step 5 and above will be paid at rates higher than the \$37,800 rate which would be continued for the incumbents of Level V positions. This of course is the situation now prevailing elsewhere in government in relation to incumbents of statutory Federal Executive Schedule positions.

[REDACTED] STATINTL

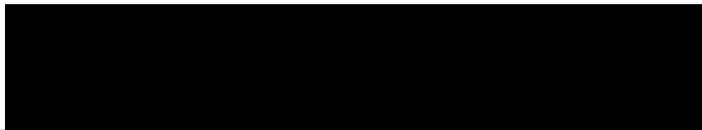
Administrative - Internal Use Only

SUBJECT: Pay Rates for Agency Senior Executive Pay
Scale Personnel

STATINTL

CONCURRENCE:

*



Anthony A. Lapham
General Counsel

October 29, 1976
(Date)

Distribution:

Original - DCI (Return to D/OF via DDA)
1 - DDCI
1 - ER
1 - General Counsel

* See our attached memorandum of today's date indicating the action we believe available to the Director.

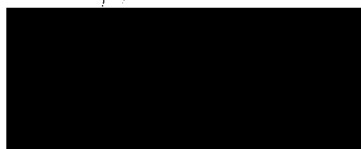
I approve granting annual compensation for Level V officers at \$39,600 and Level IV officers at \$41,800 effective 1 October 1976, or the first pay period thereafter.

See DDA 76-5461; DCI memo to D/OF, dtd 11/3/76

George Bush
Director of Central Intelligence

(Date)

*See separate memo, dated 10/26/76,
to Director of Central Intelligence, for
approval, and copy*



3 NOV 1976

STATINTL

3 NOV 1976

MEMORANDUM FOR: Director of Finance

FROM : George Bush
Director

SUBJECT : Pay Rates for Agency Senior Executive
Pay Scale Personnel

I authorize and direct that "effective on the first day of the first applicable pay period beginning on or after October 1, 1976," Executive Pay positions IV and V be compensated at the rates of \$41,800.00 and \$39,600.00, respectively.

STATINTL



George Bush

OGC 76-5544
6 October 1976

REFERENCE

A

MEMORANDUM FOR: Director of Personnel

FROM

: [REDACTED]
Associate General Counsel

STATINTL

SUBJECT : Pay Rates for Senior Agency Personnel

1. The recent Presidential and congressional actions concerning compensation for senior level Government employees have posed questions as to the appropriate pay rates for certain senior CIA personnel. Specifically, it is necessary to determine rates of pay for the Agency employees who are paid at Executive Level Schedule rates and those Agency employees whose pay rates have been limited by the so-called Asterisk Statute, that is 5 U.S.C. 5308, which provides that employees in General Schedule positions may not be paid "at a rate in excess of the rate of basic pay for level V of the Executive Schedule."

2. The positions of Director and Deputy Director of Central Intelligence are designated by statute (Federal Executive Salary Act of 1964, 5 U.S.C. 5313, 5314) as positions in levels II and III of the Executive Schedule. Certain other Agency positions are designated as positions to be compensated "at the rates established for Levels IV and V of the Federal Executive Salary Schedule"; this designation was made in a 1964 memorandum by the Director, [REDACTED]

[REDACTED]. The Agency's General Schedule positions are not established or authorized by the Classification Act of 1949, which is the authority for such positions elsewhere in the Government. Rather, the CIA General Schedule positions and pay rates are also set by a memorandum by the Director, in 1962, [REDACTED]

3. Prior to 1975 the rates of compensation for positions established by the Federal Executive Salary Act - as to CIA, only the Director and Deputy Director - were set under the procedures of the Federal Salary Act of 1967, namely, salary recommendations by the President which would become the rates of pay in the absence of veto by either House of Congress. Under the

provisions of the Executive Salary Cost-of-Living Adjustment Act, in August 1975, Executive Level positions are also to receive the cost of living salary adjustments granted General Schedule positions in the future. It was pursuant to that Act that Executive Levels II and III were increased to \$44,600 and \$42,000 in October 1975. Under the authority of that Act, the President also has set the compensation rates for those positions at \$46,800 and \$44,000 (Executive Order 11941, October 1, 1976), effective with the first pay period beginning on or after October 1, 1976. However, the Legislative Branch Appropriation Act, 1977, provides: "No part of the funds appropriated in this Act or any other Act shall be used to pay the salary of an individual in a [Statutory Executive Level position] ... at a rate which exceeds the salary rate in effect on September 30, 1976, for such position or office...." It follows that compensation for the positions of Director and Deputy Director must remain at the rates in effect on September 30, 1976, namely \$44,600 and \$42,000. (In a letter opinion to the Chairman of the House Committee on Post Office and Civil Service, September 21, 1976, concerning other questions arising under the limitations in the Legislative Branch Appropriation Act, 1977, the Comptroller General somewhat parenthetically reached the same conclusion. He noted the Chairman's statement that "he had no question as to the application of the limitation to positions under the [statutory] Executive Schedule.")

4. In the same letter, the Comptroller General also ruled that the limitations in the 1977 Legislative Branch Appropriation Act are not applicable also to "employees authorized to receive 'a rate equal to a rate for a particular level of the Executive Schedule,'" since the limitation in the Legislative Branch Appropriation Act refers to statutory Executive Schedule positions and not to positions which are to be compensated at rates equivalent to the rates set for such statutory positions. He noted also that the 1977 limitation is a limitation on the use of funds and not a veto of rates proposed by the President. Since the Executive Order of October 1, 1976, set pay rates for statutory Executive Level positions higher than those prevailing before that date and since the Director's 1964 memorandum sets the pay rates for the Executive Level positions designated by that memorandum "at the rates established for Levels IV and V of the" statutory Executive Level Schedule, including future adjustments to those rates, the non-statutory Executive Level positions of the Agency, in levels IV and V, are to be compensated at the rates set by Executive Order 11941, namely, \$41,800 and \$39,600.

5. For essentially the same reasons, the Agency's GS positions, including those frozen by the Asterisk Statute, are to be compensated at the rates set by Executive Order 11941. The Comptroller General so held with respect to General Schedule positions established by or pursuant to the Classification Act of 1949, an Act from which CIA is exempt.

FOIAb5

[REDACTED] This action, a Director memorandum of 1962, adopted those pay rates prospectively also, i.e., future adjustments to the compensation rates of GS positions under the Classification Act would apply also to the Agency's GS positions. Thus the 1977 Act limitation on the use of funds is inapplicable to the Agency's GS positions and those positions also are to be compensated at the rates set by E.O. 11941. //

STATINTL

[REDACTED]

7 August 1964

MEMORANDUM FOR: Director of Personnel

SUBJECT : CIA Salary Administration - Senior Executive Pay Scale

REFERENCE : Memo fr DDCI to DD/S dtd 4 Nov 63 subject: CIA Senior Executive Pay Scale

REFERENCE

B

1. Referenced memorandum is hereby rescinded. Pursuant to the authority vested in the Director of Central Intelligence under the provisions of Public Law 110, 81st Congress, 1st Session (1949), as amended, and other applicable laws, effective as of the date of the enactment of the Government Employees Salary Reform Act of 1964 the Agency Senior Executive Pay Scale shall consist of the positions specified below. The compensation for these positions shall be fixed at the rates established for Levels IV and V of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964:

LevelPosition

IV (\$27,000)

V (\$26,000)

2. You are authorized and directed to take all action necessary to put this schedule into effect. "Revision of the Federal Executive Salary Schedule, provisions for initial adjustment of salaries to such revised schedules, and other changes in the Federal Executive Salary Act will be given effect in the future by the Central Intelligence Agency whenever the law is amended. The effective date of such revisions and changes will be in accordance with the provisions of law making such changes //

SECRET

/s/

John A. McGone

OGC 76-5802
20 October 1976

MEMORANDUM FOR THE RECORD

FROM : [REDACTED]
Associate General Counsel

STATINTL

SUBJECT : Application of Comp. Gen. Decision Concerning
Executive Level Pay Rates

REFERENCE

C

1. Following our meeting with Finance and Personnel representatives several days ago, I contacted the General Counsel's office of GAO and [REDACTED] checked with a staff member of the Henderson Committee. The purpose of our inquiries was to learn what agencies or positions Chairman Henderson, and hence the Comptroller General, had in mind in their exchange of correspondence of 17 and 21 September. In particular, what agencies and positions were contemplated by the question concerning "positions the rate of pay for which is linked to a particular level of the Executive Schedules."

STATINTL

2. The Henderson staff man advised that no particular agency was contemplated. He stated there are numerous positions around town which would fall within that language and it was with this in mind that the Chairman's letter was drafted. He mentioned that there are many such positions in the Legislative Branch and he understood agencies such as TVA, ERDA and NRC had positions of that nature. He agreed also that CIA positions would be included.

3. The Comptroller General representatives had no knowledge as to the agencies Chairman Henderson would have in mind. He understood that there are positions in a number of agencies and he was aware that the office of the Comptroller General itself has a few such positions and he understood the Library of Congress has at least one.

STATINTL

cc: Director of Personnel
✓ Director of Finance

21 October 1976

A news story on WMAL this morning reported that sixteen persons in the D.C. court system now make more money than the judges for whom they work. It was reported that this was [REDACTED] pay increase action.

STATINTL